



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 172

AS ENACTED

TUESDAY, MARCH 8, 2005

RECEIVED AND FILED
DATE March 16, 2005
1:09 pm
TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Hande Adkison

AN ACT relating to health and nutrition in schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 156.160 is amended to read as follows:

2 (1) With the advice of the Local Superintendents Advisory Council, the Kentucky
3 Board of Education shall promulgate administrative regulations establishing
4 standards which school districts shall meet in student, program, service, and
5 operational performance. These regulations shall comply with the expected
6 outcomes for students and schools set forth in KRS 158.6451. Administrative
7 regulations shall be promulgated for the following:

8 (a) Courses of study for the different grades and kinds of common schools
9 identifying the common curriculum content directly tied to the goals,
10 outcomes, and assessment strategies developed under KRS 158.645,
11 158.6451, and 158.6453 and distributed to local school districts and schools.

12 The administrative regulations shall provide that:

- 13 1. If a school offers American sign language, the course shall be accepted
14 as meeting the foreign language requirements in common schools
15 notwithstanding other provisions of law; and
- 16 2. If a school offers the Reserve Officers Training Corps program, the
17 course shall be accepted as meeting the physical education requirement
18 for high school graduation notwithstanding other provisions of law;

19 (b) The acquisition and use of educational equipment for the schools as
20 recommended by the Council for Education Technology;

21 (c) The minimum requirements for high school graduation in light of the expected
22 outcomes for students and schools set forth in KRS 158.6451. Student scores
23 from any assessment administered under KRS 158.6453 that are determined
24 by the National Technical Advisory Panel to be valid and reliable at the
25 individual level shall be included on the student transcript. The National

1 Technical Advisory Panel shall submit its determination to the commissioner
2 of education and the Legislative Research Commission;

3 (d) Taking and keeping a school census, and the forms, blanks, and software to be
4 used in taking and keeping the census and in compiling the required reports.

5 The board shall create a statewide student identification numbering system
6 based on students' Social Security numbers. The system shall provide a
7 student identification number similar to, but distinct from, the Social Security
8 number, for each student who does not have a Social Security number or
9 whose parents or guardians choose not to disclose the Social Security number
10 for the student;

11 (e) Sanitary and protective construction of public school buildings, toilets,
12 physical equipment of school grounds, school buildings, and classrooms. With
13 respect to physical standards of sanitary and protective construction for school
14 buildings, the Kentucky Board of Education shall adopt the Uniform State
15 Building Code;

16 (f) Medical inspection, physical and health education and recreation, and other
17 regulations necessary or advisable for the protection of the physical welfare
18 and safety of the public school children. The administrative regulations shall
19 set requirements for student health standards to be met by all students in
20 grades four (4), eight (8), and twelve (12) pursuant to the outcomes described
21 in KRS 158.6451. The administrative regulations shall permit a student who
22 received a physical examination no more than six (6) months prior to his
23 initial admission to Head Start to substitute that physical examination for the
24 physical examination required by the Kentucky Board of Education of all
25 students upon initial admission to the public schools, if the physical
26 examination given in the Head Start program meets all the requirements of the
27 physical examinations prescribed by the Kentucky Board of Education;

- 1 (g) A vision examination by an optometrist or ophthalmologist that shall be
2 required by the Kentucky Board of Education. The administrative regulations
3 shall require evidence that a vision examination that meets the criteria
4 prescribed by the Kentucky Board of Education has been performed. This
5 evidence shall be submitted to the school no later than January 1 of the first
6 year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a
7 public school, public preschool, or Head Start program;
- 8 (h) The transportation of children to and from school;
- 9 (i) The fixing of holidays on which schools may be closed and special days to be
10 observed, and the pay of teachers during absence because of sickness or
11 quarantine or when the schools are closed because of quarantine;
- 12 (j) The preparation of budgets and salary schedules for the several school districts
13 under the management and control of the Kentucky Board of Education;
- 14 (k) A uniform series of forms and blanks, educational and financial, including
15 forms of contracts, for use in the several school districts; and
- 16 (l) The disposal of real and personal property owned by local boards of
17 education.
- 18 (2) (a) At the request of a local board of education or a school council, a local school
19 district superintendent shall request that the Kentucky Board of Education
20 waive any administrative regulation promulgated by that board. Beginning in
21 the 1996-97 school year, a request for waiver of any administrative regulation
22 shall be submitted to the Kentucky Board of Education in writing with
23 appropriate justification for the waiver. The Kentucky Board of Education
24 may approve the request when the school district or school has demonstrated
25 circumstances that may include but are not limited to the following:
- 26 1. An alternative approach will achieve the same result required by the
27 administrative regulation;

1 2. Implementation of the administrative regulation will cause a hardship on
 2 the school district or school or jeopardize the continuation or
 3 development of programs; or

4 3. There is a finding of good cause for the waiver.

5 (b) The following shall not be subject to waiver:

6 1. Administrative regulations relating to health and safety;

7 2. Administrative regulations relating to civil rights;

8 3. Administrative regulations required by federal law; and

9 4. Administrative regulations promulgated in accordance with KRS
 10 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to
 11 measurement of performance outcomes and determination of successful
 12 districts or schools, except upon issues relating to the grade
 13 configuration of schools.

14 (c) Any waiver granted under this subsection shall be subject to revocation upon a
 15 determination by the Kentucky Board of Education that the school district or
 16 school holding the waiver has subsequently failed to meet the intent of the
 17 waiver.

18 (3) Any private, parochial, or church school may voluntarily comply with curriculum,
 19 certification, and textbook standards established by the Kentucky Board of
 20 Education and be certified upon application to the board by such schools.

21 (4) Any public school that violates the provisions of Section 4 of this Act shall be
 22 subject to a penalty to be assessed by the commissioner of education as follows:

23 (a) The first violation shall result in a fine of no less than one (1) week's
 24 revenue from the sale of the competitive food;

25 (b) Subsequent violations shall result in a fine of no less than one (1) month's
 26 revenue from the sale of the competitive food;

27 (c) "Habitual violations," which means five (5) or more violations within a six

1 (6) month period, shall result in a six (6) month ban on competitive food
 2 sales for the violating school; and

3 (d) Revenue collected as a result of the fines in this subsection shall be
 4 transferred to the food service fund of the local school district.

5 SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
 6 READ AS FOLLOWS:

7 Beginning with the 2006-2007 school year, each school shall limit access to no more
 8 than one (1) day each week to retail fast foods in the cafeteria, whether sold by
 9 contract, commercial vendor, or otherwise.

10 SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
 11 READ AS FOLLOWS:

12 (1) Each district shall appoint a food service director who is responsible for the
 13 management and oversight of the food service program in the district, except two
 14 (2) or more contiguous districts may form one (1) "school food service area" and
 15 a school food service director shall be jointly selected by the participating school
 16 superintendents to oversee the school food service area.

17 (2) (a) Any person serving as a school food service director or person otherwise
 18 responsible for menu planning in each school district on the effective date
 19 of this Act shall be credentialed as a "school food service and nutrition
 20 specialist" or certified by a Level 2 certificate issued by the American
 21 School Food Service Association within three (3) years after the effective
 22 date of this Act. No school district shall be required to have more than one
 23 (1) person with a credential or certificate under this section.

24 (b) After the effective date of this Act, a person appointed to serve as school
 25 food service director or the person designated for menu planning who does
 26 not hold the "school food service and nutrition specialist" credential or the
 27 Level 2 certificate issued by the American School Food Service Association

1 shall obtain the appropriate credential within three (3) years of his or her
2 appointment or designation. No school district shall be required to have
3 more than one (1) person with a credential or certificate under this section.

4 (c) Eight (8) clock hours of the required continuing education for maintaining
5 the appropriate credential or certificate under this subsection shall be
6 directly related to applied nutrition and healthy meal planning and
7 preparation.

8 (3) School cafeteria managers shall annually receive at least two (2) hours of
9 continuing education in applied nutrition and healthy meal planning and
10 preparation.

11 SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) The Kentucky Board of Education shall promulgate an administrative regulation
14 in accordance with KRS Chapter 13A to specify the minimum nutritional
15 standards for all foods and beverages that are sold outside the National School
16 Breakfast and National School Lunch programs, whether in vending machines,
17 school stores, canteens, or a la carte cafeteria sales. Minimum nutritional
18 standards shall be based on the most recent edition of the United States
19 Department of Agriculture's Dietary Guidelines for Americans. The
20 administrative regulation shall address serving size, sugar, and fat content of the
21 foods and beverages. School districts may impose more stringent standards than
22 the standards implemented under the administrative regulation. A school shall
23 follow the minimum standards specified in the administrative regulation unless a
24 waiver has been requested by the school district for the school from the Kentucky
25 Board of Education. Any waiver approved by the Board of Education shall be
26 reviewed on an annual basis.

27 (2) As used in this section:

1 (a) "Competitive food" means any food or beverage item sold in competition
 2 with the National School Breakfast and National School Lunch programs.
 3 The term does not include any food or beverage sold a la carte in the
 4 cafeteria;

5 (b) "School day" means the period of time between the arrival of the first
 6 student at the school building and the end of the last instructional period;
 7 and

8 (c) "School-day-approved beverage" means water, one hundred percent
 9 (100%) fruit juice, lowfat milk, and any beverage that contains no more
 10 than ten (10) grams of sugar per serving.

11 (3) No school may sell competitive foods or beverages from the time of the arrival of
 12 the first student at the school building until thirty (30) minutes after the last
 13 lunch period.

14 (4) Only school-day-approved beverages shall be sold in elementary schools during
 15 the school day in vending machines, school stores, canteens, or fundraisers that
 16 sell beverages by students, teachers, or groups.

17 (5) Nothing in this section or Section 2 of this Act shall be construed to limit the sale
 18 of any foods or beverages by fundraisers off school property.

19 SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) Each school food service director shall annually assess school nutrition in the
 22 district and issue a written report to parents, the local school board, and school-
 23 based decision making councils. The report shall include:

24 (a) An evaluation of compliance with the National School Breakfast and
 25 National School Lunch programs;

26 (b) An evaluation of the availability of contracted fast foods or foods sold
 27 through commercial vendors;

- 1 (c) A review of access to foods and beverages sold outside the National School
 2 Breakfast and National School Lunch programs, including vending
 3 machines, school stores, canteens, and a la carte cafeteria sales;
 4 (d) A list of foods and beverages that are available to students, including the
 5 nutritional value of those foods and beverages; and
 6 (e) Recommendations for improving the school nutrition environment.
 7 (2) The Kentucky Board of Education shall develop an assessment tool that each
 8 school district may use to evaluate its physical activity environment.
 9 (3) The evaluation shall be completed annually and released to the public at the time
 10 of the release of the nutrition report under subsection (1) of this section.
 11 (4) Each school board shall discuss the findings of the nutrition report and physical
 12 activity report and seek public comments during a publicly advertised special
 13 board meeting or at the next regularly scheduled board meeting following the
 14 release of the nutrition and physical activity reports.
 15 (5) By January 31 of each year, the local board of education shall hold an advertised
 16 public forum to present a plan to improve school nutrition and physical activities
 17 in the school district.
 18 (6) Each school district shall compile a summary of findings and recommendations
 19 and submit the summary to the Kentucky Board of Education.

20 Section 6. KRS 160.345 is amended to read as follows:

- 21 (1) For the purpose of this section:
- 22 (a) "Minority" means American Indian; Alaskan native; African-American;
 23 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
 24 South American origin; Pacific islander; or other ethnic group
 25 underrepresented in the school;
- 26 (b) "School" means an elementary or secondary educational institution that is
 27 under the administrative control of a principal or head teacher and is not a

1 program or part of another school. The term "school" does not include district-
2 operated schools that are:

- 3 1. Exclusively vocational-technical, special education, or preschool
4 programs;
- 5 2. Instructional programs operated in institutions or schools outside of the
6 district; or
- 7 3. Alternative schools designed to provide services to at-risk populations
8 with unique needs;

9 (c) "Teacher" means any person for whom certification is required as a basis of
10 employment in the public schools of the state with the exception of principals,
11 assistant principals, and head teachers; and

12 (d) "Parent" means:

- 13 1. A parent, stepparent, or foster parent of a student; or
- 14 2. A person who has legal custody of a student pursuant to a court order
15 and with whom the student resides.

16 (2) Each local board of education shall adopt a policy for implementing school-based
17 decision making in the district which shall include, but not be limited to, a
18 description of how the district's policies, including those developed pursuant to
19 KRS 160.340, have been amended to allow the professional staff members of a
20 school to be involved in the decision making process as they work to meet
21 educational goals established in KRS 158.645 and 158.6451. The policy may
22 include a requirement that each school council make an annual report at a public
23 meeting of the board describing the school's progress in meeting the educational
24 goals set forth in KRS 158.6451 and district goals established by the board. The
25 policy shall also address and comply with the following:

26 (a) Except as provided in paragraph (b)2. of this subsection, each participating
27 school shall form a school council composed of two (2) parents, three (3)

1 teachers, and the principal or administrator. The membership of the council
2 may be increased, but it may only be increased proportionately. A parent
3 representative on the council shall not be an employee or a relative of an
4 employee of the school in which that parent serves, nor shall the parent
5 representative be an employee or a relative of an employee in the district
6 administrative offices. A parent representative shall not be a local board
7 member or a board member's spouse. None of the members shall have a
8 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to
9 district employees;

10 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
11 majority of the teachers. A teacher elected to a school council shall not
12 be involuntarily transferred during his or her term of office. The parent
13 representatives shall be elected for one (1) year terms. The parent
14 members shall be elected by the parents of students preregistered to
15 attend the school during the term of office in an election conducted by
16 the parent and teacher organization of the school or, if none exists, the
17 largest organization of parents formed for this purpose. A school
18 council, once elected, may adopt a policy setting different terms of
19 office for parent and teacher members subsequently elected. The
20 principal or head teacher shall be the chair of the school council.

21 2. School councils in schools having eight percent (8%) or more minority
22 students enrolled, as determined by the enrollment on the preceding
23 October 1, shall have at least one (1) minority member. If the council
24 formed under paragraph (a) of this subsection does not have a minority
25 member, the principal, in a timely manner, shall be responsible for
26 carrying out the following:

27 a. Organizing a special election to elect an additional member. The

1 principal shall call for nominations and shall notify the parents of
 2 the students of the date, time, and location of the election to elect a
 3 minority parent to the council by ballot; and

4 b. Allowing the teachers in the building to select one (1) minority
 5 teacher to serve as a teacher member on the council. If there are no
 6 minority teachers who are members of the faculty, an additional
 7 teacher member shall be elected by a majority of all teachers. Term
 8 limitations shall not apply for a minority teacher member who is
 9 the only minority on faculty;

10 (c) 1. The school council shall have the responsibility to set school policy
 11 consistent with district board policy which shall provide an environment
 12 to enhance the students' achievement and help the school meet the goals
 13 established by KRS 158.645 and 158.6451. The principal or head
 14 teacher shall be the primary administrator and the instructional leader of
 15 the school, and with the assistance of the total school staff shall
 16 administer the policies established by the school council and the local
 17 board.

18 2. If a school council establishes committees, it shall adopt a policy to
 19 facilitate the participation of interested persons, including, but not
 20 limited to, classified employees and parents. The policy shall include the
 21 number of committees, their jurisdiction, composition, and the process
 22 for membership selection;

23 (d) The school council and each of its committees shall determine the frequency
 24 of and agenda for their meetings. Matters relating to formation of school
 25 councils that are not provided for by this section shall be addressed by local
 26 board policy;

27 (e) The meetings of the school council shall be open to the public and all

1 interested persons may attend. However, the exceptions to open meetings
2 provided in KRS 61.810 shall apply;

3 (f) After receiving notification of the funds available for the school from the local
4 board, the school council shall determine, within the parameters of the total
5 available funds, the number of persons to be employed in each job
6 classification at the school. The council may make personnel decisions on
7 vacancies occurring after the school council is formed but shall not have the
8 authority to recommend transfers or dismissals;

9 (g) The school council shall determine which textbooks, instructional materials,
10 and student support services shall be provided in the school. Subject to
11 available resources, the local board shall allocate an appropriation to each
12 school that is adequate to meet the school's needs related to instructional
13 materials and school-based student support services, as determined by the
14 school council. The school council shall consult with the school media
15 librarian on the maintenance of the school library media center, including the
16 purchase of instructional materials, information technology, and equipment;

17 (h) From a list of applicants submitted by the local superintendent, the principal at
18 the participating school shall select personnel to fill vacancies, after
19 consultation with the school council, consistent with subsection (2)(i)10. of
20 this section. The superintendent may forward to the school council the names
21 of qualified applicants who have pending certification from the Education
22 Professional Standards Board based on recent completion of preparation
23 requirements, out-of-state preparation, or alternative routes to certification
24 pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to
25 any employer-employee bargained contract which is in effect. If the vacancy
26 to be filled is the position of principal, the school council shall select the new
27 principal from among those persons recommended by the local

1 superintendent. When a vacancy in the school principalship occurs, the school
 2 council shall receive training in recruitment and interviewing techniques prior
 3 to carrying out the process of selecting a principal. The council shall select the
 4 trainer to deliver the training. Personnel decisions made at the school level
 5 under the authority of this subsection shall be binding on the superintendent
 6 who completes the hiring process. Applicants subsequently employed shall
 7 provide evidence that they are certified prior to assuming the duties of a
 8 position in accordance with KRS 161.020. The superintendent shall provide
 9 additional applicants upon request when qualified applicants are available;

10 (i) The school council shall adopt a policy to be implemented by the principal in
 11 the following additional areas:

- 12 1. Determination of curriculum, including needs assessment and
 13 curriculum development;
- 14 2. Assignment of all instructional and noninstructional staff time;
- 15 3. Assignment of students to classes and programs within the school;
- 16 4. Determination of the schedule of the school day and week, subject to the
 17 beginning and ending times of the school day and school calendar year
 18 as established by the local board;
- 19 5. Determination of use of school space during the school day;
- 20 6. Planning and resolution of issues regarding instructional practices;
- 21 7. Selection and implementation of discipline and classroom management
 22 techniques as a part of a comprehensive school safety plan, including
 23 responsibilities of the student, parent, teacher, counselor, and principal;
- 24 8. Selection of extracurricular programs and determination of policies
 25 relating to student participation based on academic qualifications and
 26 attendance requirements, program evaluation, and supervision;
- 27 9. Procedures, consistent with local school board policy, for determining

1 alignment with state standards, technology utilization, and program
2 appraisal; and

3 10. Procedures to assist the council with consultation in the selection of
4 personnel by the principal, including, but not limited to, meetings,
5 timelines, interviews, review of written applications, and review of
6 references. Procedures shall address situations in which members of the
7 council are not available for consultation; and

8 (j) Each school council shall annually review data on its students' performance as
9 shown by the Commonwealth Accountability Testing System. The data shall
10 include but not be limited to information on performance levels of all students
11 tested, and information on the performance of students disaggregated by race,
12 gender, disability, and participation in the federal free and reduced price lunch
13 program. After completing the review of data, each school council, with the
14 involvement of parents, faculty, and staff, shall develop and adopt a plan to
15 ensure that each student makes progress toward meeting the goals set forth in
16 KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to
17 the superintendent and local board of education for review as described in
18 KRS 160.340. The Kentucky Department of Education shall provide each
19 school council the data needed to complete the review required by this
20 paragraph no later than November 1 of each year. If a school does not have a
21 council, the review shall be completed by the principal with the involvement
22 of parents, faculty, and staff.

23 (3) The policy adopted by the local board to implement school-based decision making
24 shall also address the following:

25 (a) School budget and administration, including: discretionary funds; activity and
26 other school funds; funds for maintenance, supplies, and equipment; and
27 procedures for authorizing reimbursement for training and other expenses;

- 1 (b) Assessment of individual student progress, including testing and reporting of
- 2 student progress to students, parents, the school district, the community, and
- 3 the state;
- 4 (c) School improvement plans, including the form and function of strategic
- 5 planning and its relationship to district planning, as well as the school safety
- 6 plan and requests for funding from the Center for School Safety under KRS
- 7 158.446;
- 8 (d) Professional development plans developed pursuant to KRS 156.095;
- 9 (e) Parent, citizen, and community participation including the relationship of the
- 10 council with other groups;
- 11 (f) Cooperation and collaboration within the district, with other districts, and with
- 12 other public and private agencies;
- 13 (g) Requirements for waiver of district policies;
- 14 (h) Requirements for record keeping by the school council; and
- 15 (i) A process for appealing a decision made by a school council.
- 16 (4) In addition to the authority granted to the school council in this section, the local
- 17 board may grant to the school council any other authority permitted by law. The
- 18 board shall make available liability insurance coverage for the protection of all
- 19 members of the school council from liability arising in the course of pursuing their
- 20 duties as members of the council.
- 21 (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to
- 22 implement school-based decision making shall do so. All schools shall implement
- 23 school-based decision making by July 1, 1996, in accordance with this section and
- 24 with the policy adopted by the local board pursuant to this section. Upon favorable
- 25 vote of a majority of the faculty at the school and a majority of at least twenty-five
- 26 (25) voting parents of students enrolled in the school, a school meeting its goal as
- 27 determined by the Department of Education pursuant to KRS 158.6455 may apply

1 to the Kentucky Board of Education for exemption from the requirement to
2 implement school-based decision making, and the state board shall grant the
3 exemption. The voting by the parents on the matter of exemption from
4 implementing school-based decision making shall be in an election conducted by
5 the parent and teacher organization of the school or, if none exists, the largest
6 organization of parents formed for this purpose. Notwithstanding the provisions of
7 this section, a local school district shall not be required to implement school-based
8 decision making if the local school district contains only one (1) school.

9 (6) The Department of Education shall provide professional development activities to
10 assist schools in implementing school-based decision making. School council
11 members elected for the first time shall complete a minimum of six (6) clock hours
12 of training in the process of school-based decision making, no later than thirty (30)
13 days after the beginning of the service year for which they are elected to serve.
14 School council members who have served on a school council at least one (1) year
15 shall complete a minimum of three (3) clock hours of training in the process of
16 school-based decision making no later than one hundred twenty (120) days after the
17 beginning of the service year for which they are elected to serve. Experienced
18 members may participate in the training for new members to fulfill their training
19 requirement. School council training required under this subsection shall be
20 conducted by trainers endorsed by the Department of Education. By November 1 of
21 each year, the principal through the local superintendent shall forward to the
22 Department of Education the names and addresses of each council member and
23 verify that the required training has been completed. School council members
24 elected to fill a vacancy shall complete the applicable training within thirty (30)
25 days of their election.

26 (7) A school that chooses to have school-based decision making but would like to be
27 exempt from the administrative structure set forth by this section may develop a

1 model for implementing school-based decision making, including but not limited to
2 a description of the membership, organization, duties, and responsibilities of a
3 school council. The school shall submit the model through the local board of
4 education to the commissioner of education and the Kentucky Board of Education,
5 which shall have final authority for approval. The application for approval of the
6 model shall show evidence that it has been developed by representatives of the
7 parents, students, certified personnel, and the administrators of the school and that
8 two-thirds (2/3) of the faculty have agreed to the model.

9 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
10 education, shall adopt by administrative regulation a formula by which school
11 district funds shall be allocated to each school council. Included in the school
12 council formula shall be an allocation for professional development that is at least
13 sixty-five percent (65%) of the district's per pupil state allocation for professional
14 development for each student in average daily attendance in the school. The school
15 council shall plan professional development in compliance with requirements
16 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
17 small schools shall be encouraged to work with other school councils to maximize
18 professional development opportunities.

19 (9) (a) No board member, superintendent of schools, district employee, or member of
20 a school council shall intentionally engage in a pattern of practice which is
21 detrimental to the successful implementation of or circumvents the intent of
22 school-based decision making to allow the professional staff members of a
23 school and parents to be involved in the decision making process in working
24 toward meeting the educational goals established in KRS 158.645 and
25 158.6451 or to make decisions in areas of policy assigned to a school council
26 pursuant to paragraph (i) of subsection (2) of this section.

27 (b) An affected party who believes a violation of this subsection has occurred may

1 file a written complaint with the Office of Education Accountability. The
 2 office shall investigate the complaint and resolve the conflict, if possible, or
 3 forward the matter to the Kentucky Board of Education.

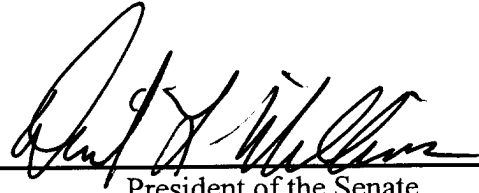
4 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
 5 KRS Chapter 13B for complaints referred by the Office of Education
 6 Accountability.

7 (d) If the state board determines a violation has occurred, the party shall be
 8 subject to reprimand. A second violation of this subsection may be grounds
 9 for removing a superintendent, a member of a school council, or school board
 10 member from office or grounds for dismissal of an employee for misconduct
 11 in office or willful neglect of duty.

12 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
 13 maintain a school-based decision making council and the powers, duties, and
 14 authority granted to a school council may be rescinded or the school council's role
 15 may be advisory if the commissioner of education or the Kentucky Board of
 16 Education takes action under KRS 160.346.

17 (11) Each school council of a school containing grades K-5 or any combination
 18 thereof, or if there is no school council, the principal, shall develop and
 19 implement a wellness policy that includes moderate to vigorous physical activity
 20 each day and encourages healthy choices among students. The policy may permit
 21 physical activity to be considered part of the instructional day, not to exceed thirty
 22 (30) minutes per day, or one hundred and fifty (150) minutes per week. Each
 23 school council, or if there is no school council, the principal, shall adopt an
 24 assessment tool to determine each child's level of physical activity on an annual
 25 basis. The council or principal may utilize an existing assessment program. The
 26 Kentucky Department of Education shall make available a list of available
 27 resources to carry out the provisions of this subsection. The department shall

1 report to the Legislative Research Commission no later than November 1 of each
2 year on how the schools are providing physical activity under this subsection and
3 on the types of physical activity being provided. The policy developed by the
4 school council or principal shall comply with provisions required by federal law,
5 state law, or local board policy.



President of the Senate



Speaker House of Representatives

Attest:



Chief Clerk of Senate

Approved



Governor

Date

